THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19637 OF 2005

DATED:6.9.2005

Between:

G.Syamala

W/o.G.Harish Chandra Reddy

R/o.8-2-674/E

Road No.13, Banjara Hills, Hyderabad

…Petitioner

And

The Municipal Corporation of Hyderabad

Rep. by its Commissioner having its Office

at M.C.H. Complex, Tank Bund, Hyderabad.

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19637 OF 2005

ORDER:

The petitioner is owner of residential flat No.202, 2nd floor, in Municipal No.6-3-680 situated at Punjagutta. The respondent sent a communication on 26.7.2005. The same is self-explanatory and reads as under.

> It is to inform you that MCH has proposed to widen the existing road from Rajiv Gandhi Statue to Panjagutta for 150'-00" wide road to ensure free flow of traffic.
>
> In the said widening programme your premises No.6-3-680 is getting

> affected to a depth of 11' to 12' admeasuring 38.51 Sq.Mtrs. (sketch plan enclosed).
>
> Therefore, while enclosing the plan of the affected portion, you are requested to extend your cooperation with MCH by exercising your consent to handover advance possession of the area affected in Road Widening to MCH in the public interest.
>
> The MCH will arrange to pay the compensation for structural valuation in respect of the affected portion or you will be allowed to avail the concessions as prescribed by the Government in G.O.Ms.No.484, MA, dated 24.8.1998 for the redevelopment of balance area.
>
> Your cooperation in the public interest is earnestly solicited.

Aggrieved by the above communication, the Writ Petition is filed before this Court. A reading of the above communication would show that the Municipal Corporation of Hyderabad (MCH) sought consent of the owner for advance possession in larger public interest. It does not, however, mean that in the event of owner of the property not willing to give consent the respondent MCH would resort to high-handed action. In such case, the MCH has to necessarily resort to provisions of Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for short, the Act). In **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** while dealing with similar matter, this Court made the following observations.

> A reading of the said letter does not in any way indicate that there is any truth in the submission made by the learned Counsel for the petitioners. What was sought to by issuing such letter is, a request was made to the landlords to give consent to handover advanced possession in the larger public interest. It was clearly informed that MCH will pay compensation to the effected structures as per the Rules and extent all benefits as per the Rules. If landlord desires to avail the benefits to be extended by the MCH on his own volition the landlord may give consent. If the landlord is not willing the letter nowhere compels one to part with the land for widening the road in which event as rightly contended by the learned Standing Counsel the MCH will have to resort to the provisions of the Land Acquisition Act.

Learned Standing Counsel for MCH has placed before this Court a note file in File No.616/ACP/C5/MCH/2005 wherein the orders were passed to the effect that if the land owner is not agreed under private negotiations, land acquisition proposals will be taken up as per the Land Acquisition Act, 1894 (LA Act). Therefore, the Writ Petition is misconceived. If the petitioner is not given their consent, it is always open to MCH to initiate action under Section 147 of the Act and acquire the property of the petitioner. In this case, the petitioner has allegedly not given her willingness/consent to cooperate with the MCH for the road widening project. Needless to mention that Corporation has to initiate action under the provisions of LA Act. Till then, the petitioner cannot be deprived of her right to enjoy the property.

The Writ Petition with the above observation is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

6.9.2005

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